

**OPINION**  
**46-181**

May 22, 1946 (OPINION)

LIQUOR STORES

RE: Regulation - Hours

This will acknowledge your letter of May 18, in which you ask the following questions: "Could the liquor store open on June 24th, after 7 p.m. after the closing of the polls, and operate the rest of that day?" This question is referred by you to this office, in view of a request from the village of St. John, which intends to have a two-day celebration on the 24th and 25th of June this year.

Section 5-0113 of the North Dakota Revised Code of 1943 provides:

Every person who sells, gives away, or disposes of any alcoholic beverage on the day of any general, special, or local election, in the village, city, or county where held, is guilty of a misdemeanor, and shall be punished by imprisonment in the county jail for not more than twenty days and by a fine of not less than fifty dollars nor more than one hundred dollars."

This section was formerly section 9292 of the 1913 Compiled Laws.

This section has been interpreted several times by my predecessors in office to the effect that the prohibition therein contained of the sale of either beer or liquor covers the entire election day, which would include the time after the polls are closed, as well as the rest of the day. This section was thus interpreted by Mr. Strutz in an opinion dated April 28, 1943. It was thus interpreted by my present first assistant, Judge Sathre, when he was attorney general.

In an opinion rendered on November 9, 1944, then Attorney General Alvin C. Strutz said this in a letter involving this section:

The state law prohibits the sale of any intoxicating liquor, including beer, on Sunday, and on election day. That is, from Saturday night at midnight until Sunday has passed, and all election day, even after the polls have closed."

I agree with these interpretations. To my mind, the phrase "on the day of any general, special, or local election," means the entire day from midnight on the day before such election day until midnight on election day.

I anticipate that when this statute was passed, the legislature had in mind that if intoxicating liquors could be sold on election day, disturbances might arise by virtue of the sale of the liquor. I can conceive of such disturbances arising during the counting of the votes after the polls have closed, if we were to interpret the statute so as to allow the sale of intoxicating liquor after the closing of the polls on a day of general, special, or local election. The counting of the votes is a public affair and it is just possible that some person who perhaps got hold of too much intoxicating liquor

might create a disturbance at the polls during the counting of the votes, if he could obtain liquor on that day. I realize that this is just an assumption on my part, as the language of the statute does not disclose the intent of the legislature. But the interpretation of the statute seems to demand that its application extends to the entire day of election, or from midnight before the election starts and until midnight the day of the election.

NELS G. JOHNSON

Attorney General